

**SCHIFF HARDIN LLP**

Jean L. Bertrand (Bar No.083250)

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Jeffrey V. Commisso (Bar No. 191267)

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One Market, Spear Street Tower

Thirty-Second Floor

San Francisco, CA 94105

Telephone: (415) 901-8700

Facsimile: (415) 901-8701

Attorneys for Plaintiff

G.G. Marck & Associates, Inc.,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

G.G. Marck & Associates, Inc.,

Plaintiff,

v.

James Peng, Photo U.S.A.  
Corporation, North American  
Investments Corp., and Photo USA  
Electronic Graphic, Inc.,

Defendants.

Case No. C 07 80222 MISC

**DECLARATION OF JEFFREY V.  
COMMISSO IN SUPPORT OF G.G.  
MARCK'S MOTION TO COMPEL  
DEFENDANTS' DEPOSITIONS  
(DEBTOR EXAMINATIONS) AND  
PRODUCTION OF DOCUMENTS**

DATE: April 25, 2008

TIME: 9:00 a.m.

JUDGE: Hon. Jeffrey White

1 I, Jeffrey V. Commisso, declare as follows:

2 1. I am an attorney licensed to practice before the United States District  
3 Court for the Northern District of California. I am an associate with the law firm of  
4 Schiff Hardin LLP, counsel of record for plaintiff G.G. Marck & Associates, Inc.  
5 ("G.G. Marck") in the above-captioned matter. I have personal, firsthand  
6 knowledge of the following matters.

7 2. On December 10, 2007, I wrote to counsel for defendants, Mr. Daniel  
8 Richardson, enclosing all defendants' deposition notices and demand for production  
9 of documents. The depositions were noticed for December 17-20, 2008. Attached  
10 hereto as **Exhibit A** is a true and correct copy of my December 10, 2007 letter.

11 3. On December 10, 2007, I spoke with Mr. Richardson. We agreed to  
12 reschedule the depositions of Mr. Peng to January 29, 2008, Photo U.S.A.  
13 Corporation to January 30, 2008, and North American Investments Corporation to  
14 January 31, 2008.

15 4. Attached hereto as **Exhibit B** is a true and correct copy of my second  
16 December 10, 2007 letter confirming this conversation.

17 5. Attached hereto as **Exhibit C** is a true and correct copy G.G. Marck's  
18 Amended Notice of Deposition of James Peng and Demand for Production of  
19 Documents (Debtor's Examination).

20 6. Attached hereto as **Exhibit D** is a true and correct copy G.G. Marck's  
21 Amended Notice of Deposition of North American Investments Corporation and  
22 Demand for Production of Documents.

23 7. Attached hereto as **Exhibit E** is a true and correct copy G.G. Marck's  
24 Amended Notice of Deposition of Photo U.S.A. Corporation and Demand for  
25 Production of Documents.

26 8. Attached here to as **Exhibit F** is a true and correct copy of Mr.  
27 Richardson's January 22, 2008 letter.  
28

1           9.     On January 28, 2008, Mr. Richardson and I spoke about Mr. Peng  
2     returning to the United States and that counsel would again speak on February 6,  
3     2008 about rescheduling the debtors examination. We agreed to a stipulation and  
4     order that the depositions would be completed by a set date and an order to that  
5     effect to be submitted to the Court. Further, we agreed that the production of  
6     documents would occur five days before each deposition. Attached here as **Exhibit**  
7     **G** is a true and correct copy of a letter dated January 28, 2008 that confirms this  
8     conversation.

9           10.    On February 8, 2008, Mr. Richardson left a message for me agreeing  
10    that the stipulation and order should contain a deadline for completion of  
11    defendants' depositions, instead of specific dates.

12          11.    On February 11, 2008, I wrote a letter to Mr. Richardson about the  
13    agreed stipulation and order. Attached hereto as **Exhibit H** is a true and correct  
14    copy of this letter dated February 11, 2008.

15          12.    On February 15, 2008 I attempted to contact Mr. Richardson regarding  
16    the proposed stipulation and order. I left a message on his work answering  
17    machine. He did not respond.

18          13.    On February 19, I sent the proposed stipulation and order concerning  
19    the debtors examinations and depositions to Mr. Richardson. Attached hereto as  
20    **Exhibit I** is a true and correct copy of the proposed stipulation and order with  
21    accompanying cover letter.

22          14.    On February 21, 2008, I again attempted to contact Mr. Richardson by  
23    phone regarding the proposed stipulation and order and left him a voice message.  
24    Again, Mr. Richardson did not respond.

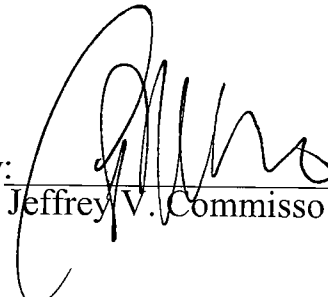
25          15.    On February 26, 2008, I sent a facsimile to Mr. Richardson asking for a  
26    response to the proposed stipulation and order by February 27, 2008. He did not  
27    respond by February 27, 2008. Attached hereto as **Exhibit J** is a true and correct  
28    copy of that letter.

1           16. So far, an associate in my office, Nicole S. Magaline, has spent 15  
2 hours preparing this Motion to Compel. Her hourly rate is \$230, totaling \$3,450 in  
3 legal fees.

4           17. G.G. Marck has also incurred filing fees, copying costs, fax charges,  
5 and messenger charges in connection with this dispute.

6           I declare under penalty of perjury under the laws of the State of California  
7 that the foregoing is true and correct.

8  
9  
10 Dated: March 7, 2008

11  
12 By:   
13 Jeffrey V. Commisso

14 SF9101200.1

**PROOF OF SERVICE**

I, the undersigned, declare:

I am a citizen of the United States and I am a resident of the State of California and over the age of eighteen (18) years, and not a party to the within action. I am an employee of Schiff Hardin LLP, and my business address is One Market, Spear Street Tower, Thirty Second Floor, San Francisco, California 94105.

On the date below, I served a copy of the within document(s):

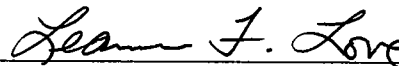
**DECLARATION OF JEFFREY V. COMMISSO IN SUPPORT OF G.G. MARCK'S MOTION TO COMPEL DEFENDANTS' DEPOSITIONS (DEBTOR EXAMINATIONS) AND PRODUCTION OF DOCUMENTS**

☒ **BY U.S. MAIL:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102  
Phone: (415) 291-8900  
Fax: (415) 291-8391

*Attorneys for Defendants James Peng,  
Photo U.S.A. Corporation, North  
American Investments Corp. and Photo  
USA Electronic Graphic, Inc.*

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 7, 2008, at San Francisco, California.

  
\_\_\_\_\_  
Leann F. Love

SF9046526.1

## **EXHIBIT A**



Jeffrey V. Commisso  
415-901-8781  
jcommisso@schiffhardin.com

ONE MARKET  
SPEAR STREET TOWER  
THIRTY-SECOND FLOOR  
SAN FRANCISCO, CA 94105  
t 415.901.8700  
f 415.901.8701  
www.schiffhardin.com

December 10, 2007

**VIA FACSIMILE**

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

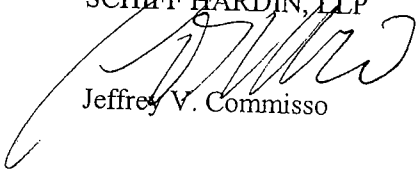
Re: G. G. Marck & Associates, Inc. v. James Peng et al.  
Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

Thank you for your December 7, 2007, voicemail regarding examinations in this matter. As you requested, I am enclosing copies of the subpoena and the deposition notices in this matter. While preparing to send these documents to you, I noticed that all the examinations have been set for December 17, 2007, at 9:00 a.m. This was an error. Examinations should have been set for December 17, 18, 19, and 20, 2007. I regret the error.

Please let me know whether and to what extent your clients are available for examinations the week of December 17, 2007, or if we need to make other arrangements.

Very truly yours,  
SCHIFF HARDIN, LLP

  
Jeffrey V. Commisso

JVC:sr  
Enclosures

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 4444  
CONNECTION TEL 2918391  
SUBADDRESS  
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ST. TIME 12/10 11:01  
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One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105 - 415.901.8700  
Facsimile 415.901.8701

CLIENT/MATTER NO.: 35323-0000  
DATE: December 10, 2007

### FACSIMILE TRANSMITTAL SHEET

#### TO THE FOLLOWING:

Name	Fax Number	Phone Number
Daniel R. Richardson	(415) 291-8391	(415) 291-8900

FROM: Jeffrey V. Commisso	DIRECT DIAL NO.: (415) 901-8781
---------------------------	---------------------------------

Transmission consists of cover sheet plus 39 pages.

If there are any problems with this transmission, please call Susannah Roff at (415) 901-8737.

#### COMMENTS

Attached please find our letter of 12-10-07 and the following attachments:

Subpoena in a Civil Case

Notice of Deposition of James Peng and Demand for Production of Documents





One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105 · 415.901.8700  
Facsimile 415.901.8701

CLIENT/MATTER NO.: 35323-0000  
DATE: December 10, 2007

## FACSIMILE TRANSMITTAL SHEET

### TO THE FOLLOWING:

Name	Fax Number	Phone Number
Daniel R. Richardson	(415) 291-8391	(415) 291-8900

FROM: Jeffrey V. Commisso	DIRECT DIAL NO.: (415) 901-8781
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### COMMENTS

Attached please find our letter of 12-10-07 and the following attachments:

Subpoena in a Civil Case

Notice of Deposition of James Peng and Demand for Production of Documents

Notice of Deposition of North American Investment Corp. and Demand for Production of Documents

Notice of Deposition of Photo USA Corp. and Demand for Production of Documents

Notice of Deposition of Anna K. Peng

IMPORTANT - THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT READING, DISSEMINATING, DISTRIBUTING OR COPYING THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU

## **EXHIBIT B**



Jeffrey V. Commisso  
415-901-8781  
jcommisso@schiffhardin.com

ONE MARKET  
SPEAR STREET TOWER  
THIRTY-SECOND FLOOR  
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December 10, 2007

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

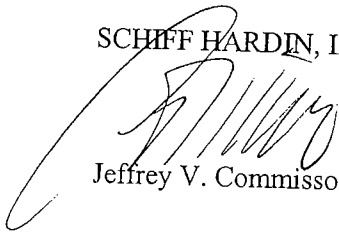
Re: G. G. Marck & Associates, Inc. v. James Peng et al.  
Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

It was a pleasure speaking with you today. As we discussed, I have prepared amended notices of examination for Mr. Peng, Photo U.S.A. Corporation, and North American Investments Corporation, which are enclosed. With respect to Ms. Peng, we agreed to take her examination off calendar at least until the other examinations are complete. Although we did not discuss it, I assume that, if we need to reschedule Ms. Peng's deposition, you will accept service for her. Please let me know if I am wrong about this.

Very truly yours,

SCHIFF HARDIN, LLP

  
Jeffrey V. Commisso

JVC:sr  
Enclosures

## **EXHIBIT C**

**SCHIFF HARDIN LLP**

Jean L. Bertrand (Bar No.083250)

jbertrand@schiffhardin.com

Jeffrey V. Commisso (Bar No. 191267)

jcommisso@schiffhardin.com

One Market, Spear Street Tower

Thirty-Second Floor

San Francisco, CA 94105

Telephone: (415) 901-8700

Facsimile: (415) 901-8701

Attorneys for Plaintiff

G.G. Marck & Associates, Inc.,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

G.G. Marck & Associates, Inc.,

Plaintiff,

v.

James Peng, Photo U.S.A.  
Corporation, North American  
Investments Corp., and Photo USA  
Electronic Graphic, Inc.,

Defendants.

Case No. C 07 80222 MISC

**AMENDED NOTICE OF  
DEPOSITION OF  
JAMES PENG AND DEMAND FOR  
PRODUCTION OF DOCUMENTS**

**(DEBTOR'S EXAMINATION)**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30, 45, and 69, plaintiff and judgment creditor G. G. Marck & Associates, Inc., by and through its attorneys of record, will take the deposition of defendant and judgment debtor James Peng.

This deposition will take place at Schiff Hardin, LLP, One Market Street, San Francisco, California, 94105, on January 29, 2008, at 9:00 a.m. The deposition will continue from day to day, excluding weekends and holidays, until complete. The deposition will be taken before a certified court reporter authorized to administer oaths and will be recorded stenographically.

1 PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rules of Civil  
2 Procedure 30, 45, and 69, the deponent shall bring to the deposition any and all  
3 documents responsive to this notice.  
4

5 **DEFINITIONS AND INSTRUCTIONS**

6 1. The terms "YOU" and "YOUR" mean and include defendant James  
7 Peng and any person or entity acting on his behalf, including his agents, and  
8 employees.

9 2. The term "CODEFENDANTS" means and includes Photo U.S.A.  
10 Corporation, North American Investments Corporation, and Photo USA Electronic  
11 Graphic, Inc.

12 3. The term "DOCUMENTS" means and includes means handwriting,  
13 typewriting, printing, photostating, photographing, photocopying, transmitting by  
14 electronic mail or facsimile, and every other means of recording upon any tangible  
15 thing, any form of communication or representation, including letters, words,  
16 pictures, sounds, or symbols, or combinations thereof, and any record thereby  
17 created, regardless of the manner in which the record has been stored.

18 With respect to electronically stored information, such information should be  
19 produced in hard copy and electronic format.  
20

21 **DOCUMENTS YOU ARE TO PRODUCE:**

22 1. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
23 to YOUR income.

24 2. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
25 to YOUR assets.

26 3. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
27 to YOUR liabilities.

28 4. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate

1 to YOUR expenditures.

2 5. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
3 to YOUR financial, banking, stock, bond, or investment accounts.

4 6. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
5 to YOUR federal income tax.

6 7. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
7 to YOUR state income tax.

8 8. All bank statements, signature cards, canceled checks, deposit slips,  
9 bank memoranda, checkbooks, certificates of deposit, passbooks and any other  
10 DOCUMENTS that relate to checking accounts, savings accounts, escrow accounts  
11 or any other accounts in a bank, savings and loan association, credit union, or other  
12 financial institution in which YOU have or have had an interest.

13 9. All deeds, mortgages, trust deeds, certificates of participation, trust  
14 agreements, contracts for deed and other DOCUMENTS that evidence any  
15 ownership interest, legal or equitable, in real estate in which YOU have or have had  
16 an interest.

17 10. All statements of account and other DOCUMENTS that relate to a  
18 stock, money market, option or commodities brokerage account or accounts,  
19 whether or not maintained with a stock or commodities broker or other financial  
20 institution, in which YOU have or have had an interest.

21 11. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
22 property or assets held by any of YOUR CODEFENDANTS.

23 12. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
24 sale, transfer, or gift of any of YOUR assets or income.

25 13. All notes, mortgages and other DOCUMENTS that refer or relate to  
26 any indebtedness, liability or obligation owed by any of the CODEFENDANTS to  
27 YOU.

28

1           14. All notes, mortgages and other DOCUMENTS in YOUR that refer or  
2 relate to any indebtedness, liability or obligation owed by YOU to any of the  
3 CODEFENDANTS.

4           15. All DOCUMENTS that refer or relate to ownership of any of the  
5 CODEFENDANTS.

6           16. All DOCUMENTS reflecting the assets, liabilities, income, debts, or  
7 expenditures of any of the CODEFENDANTS.

8           17. All DOCUMENTS that pertain to royalties, expectancies, stock  
9 certificates, notes, bonds, debentures, futures contracts, or options, whether  
10 negotiable or non-negotiable, in which YOU have or have had an interest.

11           18. All DOCUMENTS that pertain to life, casualty, or property insurance  
12 policies in which YOU have or have had an interest.

13           19. All receipts, rental agreements, or other DOCUMENTS that reflect,  
14 refer to, or relate to any safety deposit box to which YOU have or have had access.

15           20. All certificates of title for any motor vehicle in which YOU have or  
16 have had an interest.

17           21. All certificates of title, registration certificates, financing statements,  
18 agreements or other DOCUMENTS that reflect, refer, or relate to relate to any  
19 airplanes, helicopters, boats, ships, yachts, barges, railway cars, gems, jewelry,  
20 artwork, livestock, or race horses in which YOU have or have had an interest.

21           22. All certificates of title and other DOCUMENTS that relate to  
22 inventory, machinery, supplies, fixed assets, plants, warehouses or other like assets  
23 in which YOU have or have had an interest.

24           23. All DOCUMENTS reflect, refer to, or relate to YOUR cash on hand.

25           24. All DOCUMENTS reflect, refer to, or relate to any funds belonging to  
26 YOU that are being held in escrow or trust.

27           25. All DOCUMENTS reflect, refer to, or relate to any trust to which you  
28 are, have been, or may be a beneficiary.



1        26. All agreements, memoranda, minutes, notes, DOCUMENTS filed with  
2 any governmental organization or agency, and any other DOCUMENTS that  
3 reflect, refer to, or relate to any partnership, joint venture, or any other type of  
4 business entity in which you have or have had an interest.

5        27. All books, records, journals, ledgers, financial statements, both  
6 certified and otherwise, accountants' worksheets and other DOCUMENTS that  
7 reflect YOUR day-to-day financial transactions.

8        28. DOCUMENTS sufficient to identify any claims on YOUR behalf in  
9 pending lawsuits in which YOU are a party.

10       29. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
11 to any claims, accounts receivable, notes, or expectancies that YOU hold against  
12 any person or entity.

13       30. All financing statements, security agreements, contracts, promissory  
14 notes, purchase agreements, bills of sale, and other DOCUMENTS that list YOU as  
15 either the creditor, debtor, guarantor, payee, assignor, assignee, transferor or  
16 transferee and any related foreclosure DOCUMENTS.

17       31. All DOCUMENTS reflecting, referring to, or relating to the current  
18 whereabouts of any tangible assets, including equipment, inventory and real  
19 property in which YOU have or have had an interest.

20       32. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
21 to, any judgments held by YOU against any individual or entity.

22  
23 Dated: December 10, 2007

**SCHIFF HARDIN LLP**

24  
25  
26 By: 

Jeffrey V. Commisso  
Attorneys for Plaintiff  
G.G. Marck & Associates, Inc.,

**PROOF OF SERVICE**

I, the undersigned, declare:

I am a resident of the State of California and over the age of eighteen (18) years, and not a party to the within action. I am an employee of Schiff Hardin LLP, and my business address is One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105.

On the date below, I caused to be served the following document(s):

**AMENDED NOTICE OF DEPOSITION OF JAMES PENG AND DEMAND FOR PRODUCTION OF DOCUMENTS**

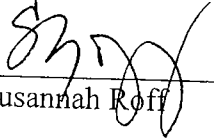
on the parties involved addressed as follows:



**BY U.S. MAIL:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102  
(415) 291-8900  
Fax: (415) 291-8391

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 10, 2007, at San Francisco, California.

  
\_\_\_\_\_  
Susannah Roff

## **EXHIBIT D**

**SCHIFF HARDIN LLP**

Jean L. Bertrand (Bar No.083250)

jbertrand@schiffhardin.com

Jeffrey V. Commisso (Bar No. 191267)

jcommisso@schiffhardin.com

One Market, Spear Street Tower

Thirty-Second Floor

San Francisco, CA 94105

Telephone: (415) 901-8700

Facsimile: (415) 901-8701

Attorneys for Plaintiff

G.G. Marck & Associates, Inc.,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NORTHERN CALIFORNIA

G.G. Marck & Associates, Inc.,

Plaintiff,

v.

James Peng, North American  
Investments Corporation, North  
American Investments Corp., and  
Photo USA Electronic Graphic, Inc.,

Defendants.

Case No. C 07 80222 MISC

**AMENDED NOTICE OF  
DEPOSITION OF  
NORTH AMERICAN  
INVESTMENTS CORPORATION  
AND DEMAND FOR PRODUCTION  
OF DOCUMENTS**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30, 45, and 69, plaintiff and judgment creditor G. G. Marck & Associates, Inc., by and through its attorneys of record, will take the deposition of defendant and judgment debtor North American Investments Corporation on the matters listed below.

This deposition will take place at Schiff Hardin, LLP, One Market Street, San Francisco, California, 94105, on January 30, 2008, at 9:00 a.m. The deposition will continue from day to day, excluding weekends and holidays, until complete. The deposition will be taken before a certified court reporter authorized to

1 administer oaths and will be recorded stenographically.

2 PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rules of Civil  
3 Procedure 30, 45, and 69, the deponent(s) shall bring to the deposition any and all  
4 documents responsive to this notice.

5 **MATTERS OF EXAMINATION**

6 Pursuant to Federal Rule of Civil Procedure 30(b)(6), North American  
7 Investments Corporation shall designate one or more officers, directors, or  
8 managing agents, or other persons who consent to testify on its behalf on the  
9 following matters:

10 1. North American Investments Corporation's current, past, and future  
11 income.

12 2. North American Investments Corporation's current, past, and future  
13 assets.

14 3. North American Investments Corporation's current, past, and future  
15 liabilities.

16 4. North American Investments Corporation's current, past, and future  
17 expenditures.

18 5. North American Investments Corporation's current, past, and future  
19 financial, banking, stock, bond, or investment accounts.

20 6. North American Investments Corporation's current, past, and future  
21 federal income tax.

22 7. North American Investments Corporation's current, past, and future  
23 state income tax.

24 8. North American Investments Corporation's current, past, and future  
25 checking accounts, savings accounts, escrow accounts or any other accounts in a  
26 bank, savings and loan association, credit union, or other financial institution.

27 9. North American Investments Corporation's current, past, and future  
28 ownership interest, legal or equitable, in real estate.

1           10. North American Investments Corporation's current, past, and future  
2 stock, money market, option or commodities brokerage account or accounts,  
3 whether or not maintained with a stock or commodities broker or other financial  
4 institution.

5           11. North American Investments Corporation's current, past, and future  
6 property or assets held by James Peng, Photo U.S.A. Corporation, or Photo USA  
7 Electronic Graphic, Inc.

8           12. North American Investments Corporation's current, past, and future  
9 sale, transfer, or gift of any of assets or income.

10          13. Current, past, and future indebtedness, liability or obligation owed to  
11 North American Investments Corporation by any person or entity, including James  
12 Peng, Photo U.S.A. Corporation, or Photo USA Electronic Graphic, Inc.

13          14. North American Investments Corporation's current, past, and future  
14 indebtedness, liability or obligation owed to any person or entity, including James  
15 Peng, Photo U.S.A. Corporation, or Photo USA Electronic Graphic, Inc.

16          15. Ownership of North American Investments Corporation, Photo U.S.A.  
17 Corporation, and Photo USA Electronic Graphic, Inc.

18          16. Assets, liabilities, income, debts, or expenditures of North American  
19 Investments Corporation, Photo U.S.A. Corporation, and Photo USA Electronic  
20 Graphic, Inc..

21          16. All royalties, expectancies, stock certificates, notes, bonds, debentures,  
22 futures contracts, or options, whether negotiable or non-negotiable, in which North  
23 American Investments Corporation has a current, past, or future interest.

24          17. All life, casualty, or property insurance policies in which North  
25 American Investments Corporation has a current, past, or future interest.

26          18. Any safety deposit box in which North American Investments  
27 Corporation has a current, past, or future interest.

28

1           19. Motor vehicles in which North American Investments Corporation has  
2 a current, past, or future interest.

3           20. Airplanes, helicopters, boats, ships, yachts, barges, railway cars, gems,  
4 jewelry, artwork, livestock, or race horses in which North American Investments  
5 Corporation has a current, past, or future interest.

6           21. Inventory, machinery, supplies, fixed assets, plants, warehouses or  
7 other like assets in which North American Investments Corporation has a current,  
8 past, or future interest.

9           22. North American Investments Corporation's current, past, or future  
10 interest cash on hand.

11           23. All funds belonging to North American Investments Corporation that  
12 are held in escrow or trust.

13           24. All trusts to which North American Investments Corporation is, has  
14 been, or may be a trustor, trustee, or beneficiary.

15           25. All partnerships, joint ventures, and any other type of business entity  
16 in which North American Investments Corporation has a current, past, or future  
17 interest.

18           26. North American Investments Corporation's current, past, and future  
19 day-to-day financial transactions.

20           27. Pending lawsuits in which North American Investments Corporation  
21 has a current, past, or future interest.

22           28. All claims, accounts receivable, notes, or expectancies that North  
23 American Investments Corporation holds against any person or entity.

24           29. The current whereabouts of any tangible assets, including equipment,  
25 inventory and real property in which North American Investments Corporation has  
26 a current, past, or future interest.

27           30. North American Investments Corporation's financial institutions,  
28 financial accounts, financial-account numbers, and financial-account balances.

1 31. All judgments held by North American Investments Corporation  
2 against any individual or entity.

3 32. North American Investments Corporation's shareholders.

4 33. North American Investments Corporation's bondholders.

5 34. North American Investments Corporation's stock.

6 35. North American Investments Corporation's bonds.

7 PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rules of Civil  
8 Procedure 30, 45, and 69, the deponent shall bring to the deposition any and all  
9 documents responsive to the subpoena.

10  
11 **DEFINITIONS AND INSTRUCTIONS**

12 1. The terms "YOU" and "YOUR" mean and include North American  
13 Investments Corporation, its parents, subsidiaries, and joint ventures as well as any  
14 person or entity acting on its behalf, including its agents, and employees.

15 2. The term "CODEFENDANTS" means and includes James Peng,  
16 Photo U.S.A. Corporation, and Photo USA Electronic Graphic, Inc.

17 3. The term "DOCUMENTS" means and includes means handwriting,  
18 typewriting, printing, photostating, photographing, photocopying, transmitting by  
19 electronic mail or facsimile, and every other means of recording upon any tangible  
20 thing, any form of communication or representation, including letters, words,  
21 pictures, sounds, or symbols, or combinations thereof, and any record thereby  
22 created, regardless of the manner in which the record has been stored.

23 With respect to electronically stored information, such information should be  
24 produced in hard copy and electronic format.

25 **DOCUMENTS YOU ARE TO PRODUCE:**

26 1. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
27 to YOUR income.



1           2. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
2 to YOUR assets.

3           3. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
4 to YOUR liabilities.

5           4. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
6 to YOUR expenditures.

7           5. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
8 to YOUR financial, banking, stock, bond, or investment accounts.

9           6. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
10 to YOUR federal income tax.

11          7. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
12 to YOUR state income tax.

13          8. All bank statements, signature cards, canceled checks, deposit slips,  
14 bank memoranda, checkbooks, certificates of deposit, passbooks and any other  
15 DOCUMENTS that relate to checking accounts, savings accounts, escrow accounts  
16 or any other accounts in a bank, savings and loan association, credit union, or other  
17 financial institution in which YOU have or have had an interest.

18          9. All deeds, mortgages, trust deeds, certificates of participation, trust  
19 agreements, contracts for deed and other DOCUMENTS that evidence any  
20 ownership interest, legal or equitable, in real estate in which YOU have or have had  
21 an interest.

22          10. All statements of account and other DOCUMENTS that relate to a  
23 stock, money market, option or commodities brokerage account or accounts,  
24 whether or not maintained with a stock or commodities broker or other financial  
25 institution, in which YOU have or have had an interest.

26          11. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
27 property or assets held by any of the CODEFENDANTS.  
28

1           12. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
2 sale, transfer, or gift of any of YOUR assets or income.

3           13. All notes, mortgages and other DOCUMENTS that refer or relate to  
4 any indebtedness, liability or obligation owed by any of the CODEFENDANTS to  
5 YOU.

6           14. All notes, mortgages and other DOCUMENTS in YOUR that refer or  
7 relate to any indebtedness, liability or obligation owed by YOU to any of the  
8 CODEFENDANTS.

9           15. All DOCUMENTS that refer or relate to ownership of Photo U.S.A.  
10 Corporation, North American Investments Corporation, or Photo USA Electronic  
11 Graphic, Inc.

12           16. All DOCUMENTS reflecting the assets, liabilities, income, debts, or  
13 expenditures of any of the CODEFENDANTS.

14           17. All DOCUMENTS that pertain to royalties, expectancies, stock  
15 certificates, notes, bonds, debentures, futures contracts, or options, whether  
16 negotiable or non-negotiable, in which YOU have or have had an interest.

17           18. All DOCUMENTS that pertain to life, casualty, or property insurance  
18 policies in which YOU have or have had an interest.

19           19. All receipts, rental agreements, or other DOCUMENTS that reflect,  
20 refer to, or relate to any safety deposit box to which YOU have or have had access.

21           20. All certificates of title for any motor vehicle in which YOU have or  
22 have had an interest.

23           21. All certificates of title, registration certificates, financing statements,  
24 agreements or other DOCUMENTS that reflect, refer, or relate to relate to any  
25 airplanes, helicopters, boats, ships, yachts, barges, railway cars, gems, jewelry,  
26 artwork, livestock, or race horses in which YOU have or have had an interest.  
27  
28

1       22. All certificates of title and other DOCUMENTS that relate to  
2 inventory, machinery, supplies, fixed assets, plants, warehouses or other like assets  
3 in which YOU have or have had an interest.

4       23. All DOCUMENTS reflect, refer to, or relate to YOUR cash on hand.

5       24. All DOCUMENTS reflect, refer to, or relate to any funds belonging to  
6 YOU that are being held in escrow or trust.

7       25. All DOCUMENTS reflect, refer to, or relate to any trust to which you  
8 are, have been, or may be a beneficiary.

9       26. All agreements, memoranda, minutes, notes, DOCUMENTS filed with  
10 any governmental organization or agency, and any other DOCUMENTS that  
11 reflect, refer to, or relate to any partnership, joint venture, or any other type of  
12 business entity in which you have or have had an interest.

13       27. All books, records, journals, ledgers, financial statements, both  
14 certified and otherwise, accountants' worksheets and other DOCUMENTS that  
15 reflect YOUR day-to-day financial transactions.

16       28. DOCUMENTS sufficient to identify any claims on YOUR behalf in  
17 pending lawsuits in which YOU are a party.

18       29. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
19 to any claims, accounts receivable, notes, or expectancies that YOU hold against  
20 any person or entity.

21       30. All financing statements, security agreements, contracts, promissory  
22 notes, purchase agreements, bills of sale, and other DOCUMENTS that list YOU as  
23 either the creditor, debtor, guarantor, payee, assignor, assignee, transferor or  
24 transferee and any related foreclosure DOCUMENTS.

25       31. All DOCUMENTS reflecting, referring to, or relating to the current  
26 whereabouts of any tangible assets, including equipment, inventory and real  
27 property in which YOU have or have had an interest.  
28

1 32. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
2 to, any judgments held by YOU against any individual or entity.

3 33. All DOCUMENTS that evidence, reflect, refer to, or relate to YOUR  
4 shareholders.

5 34. All DOCUMENTS that evidence, reflect, refer to, or relate to YOUR  
6 bondholders.

7  
8 Dated: December 10, 2007

**SCHIFF HARDIN LLP**

9  
10  
11 By: 

Jeffrey V. Commisso  
Attorneys for Plaintiff  
G. G. Marck & Associates, Inc.,  
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**PROOF OF SERVICE**

I, the undersigned, declare:

I am a resident of the State of California and over the age of eighteen (18) years, and not a party to the within action. I am an employee of Schiff Hardin LLP, and my business address is One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105.

On the date below, I caused to be served the following document(s):

**AMENDED NOTICE OF DEPOSITION OF NORTH AMERICAN INVESTMENTS CORPORATION AND DEMAND FOR PRODUCTION OF DOCUMENTS**


on the parties involved addressed as follows:



**BY U.S. MAIL:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102  
(415) 291-8900  
Fax: (415) 291-8391

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 10, 2007, at San Francisco, California.

  
\_\_\_\_\_  
Susannah Roff

## **EXHIBIT E**

**SCHIFF HARDIN LLP**

Jean L. Bertrand (Bar No.083250)

jbertrand@schiffhardin.com

Jeffrey V. Commisso (Bar No. 191267)

jcommisso@schiffhardin.com

One Market, Spear Street Tower

Thirty-Second Floor

San Francisco, CA 94105

Telephone: (415) 901-8700

Facsimile: (415) 901-8701

Attorneys for Plaintiff

G.G. Marck & Associates, Inc.,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

G.G. Marck & Associates, Inc.,

Plaintiff,

v.

James Peng, Photo U.S.A.  
Corporation, North American  
Investments Corp., and Photo USA  
Electronic Graphic, Inc.,

Defendants.

Case No. C 07 80222 MISC

**AMENDED NOTICE OF  
DEPOSITION OF  
PHOTO U.S.A. CORPORATION  
AND DEMAND FOR PRODUCTION  
OF DOCUMENTS**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30, 45, and 69, plaintiff and judgment creditor G. G. Marck & Associates, Inc., by and through its attorneys of record, will take the deposition of defendant and judgment debtor Photo U.S.A. Corporation on the matters listed below.

This deposition will take place at Schiff Hardin, LLP, One Market Street, San Francisco, California, 94105, on January 31, 2008, at 9:00 a.m. The deposition will continue from day to day, excluding weekends and holidays, until complete. The deposition will be taken before a certified court reporter authorized to administer oaths and will be recorded stenographically.

1 PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rules of Civil  
2 Procedure 30, 45, and 69, the deponent(s) shall bring to the deposition any and all  
3 documents responsive to this notice.  
4

5 **MATTERS OF EXAMINATION**

6 Pursuant to Federal Rule of Civil Procedure 30(b)(6), Photo U.S.A.  
7 Corporation shall designate one or more officers, directors, or managing agents, or  
8 other persons who consent to testify on its behalf on the following matters:

- 9 1. Photo U.S.A. Corporation's current, past, and future income.
- 10 2. Photo U.S.A. Corporation's current, past, and future assets.
- 11 3. Photo U.S.A. Corporation's current, past, and future liabilities.
- 12 4. Photo U.S.A. Corporation's current, past, and future expenditures.
- 13 5. Photo U.S.A. Corporation's current, past, and future financial,  
14 banking, stock, bond, or investment accounts.
- 15 6. Photo U.S.A. Corporation's current, past, and future federal income  
16 tax.
- 17 7. Photo U.S.A. Corporation's current, past, and future state income tax.
- 18 8. Photo U.S.A. Corporation's current, past, and future checking  
19 accounts, savings accounts, escrow accounts or any other accounts in a bank,  
20 savings and loan association, credit union, or other financial institution.
- 21 9. Photo U.S.A. Corporation's current, past, and future ownership  
22 interest, legal or equitable, in real estate.
- 23 10. Photo U.S.A. Corporation's current, past, and future stock, money  
24 market, option or commodities brokerage account or accounts, whether or not  
25 maintained with a stock or commodities broker or other financial institution.
- 26 11. Photo U.S.A. Corporation's current, past, and future property or assets  
27 held by James Peng, North American Investments Corporation, or Photo USA  
28 Electronic Graphic, Inc.



1           12. Photo U.S.A. Corporation's current, past, and future sale, transfer, or  
2 gift of any of assets or income.

3           13. Current, past, and future indebtedness, liability or obligation owed to  
4 Photo U.S.A. Corporation by any person or entity, including James Peng, North  
5 American Investments Corporation, or Photo USA Electronic Graphic, Inc.

6           14. Photo U.S.A. Corporation's current, past, and future indebtedness,  
7 liability or obligation owed to any person or entity, including James Peng, North  
8 American Investments Corporation, or Photo USA Electronic Graphic, Inc.

9           15. Ownership of Photo U.S.A. Corporation, North American Investments  
10 Corporation, and Photo USA Electronic Graphic, Inc.

11           16. Assets, liabilities, income, debts, or expenditures of Photo U.S.A.  
12 Corporation, North American Investments Corporation, and Photo USA Electronic  
13 Graphic, Inc..

14           17. All royalties, expectancies, stock certificates, notes, bonds, debentures,  
15 futures contracts, or options, whether negotiable or non-negotiable, in which Photo  
16 U.S.A. Corporation has a current, past, or future interest.

17           18. All life, casualty, or property insurance policies in which Photo U.S.A.  
18 Corporation has a current, past, or future interest.

19           19. Any safety deposit box in which Photo U.S.A. Corporation has a  
20 current, past, or future interest.

21           20. Motor vehicles in which Photo U.S.A. Corporation has a current, past,  
22 or future interest.

23           21. Airplanes, helicopters, boats, ships, yachts, barges, railway cars, gems,  
24 jewelry, artwork, livestock, or race horses in which Photo U.S.A. Corporation has a  
25 current, past, or future interest.

26           22. Inventory, machinery, supplies, fixed assets, plants, warehouses or  
27 other like assets in which Photo U.S.A. Corporation has a current, past, or future  
28 interest.

1           23. Photo U.S.A. Corporation's current, past, or future interest cash on  
2 hand.

3           24. All funds belonging to Photo U.S.A. Corporation that are held in  
4 escrow or trust.

5           25. All trusts to which Photo U.S.A. Corporation is, has been, or may be a  
6 trustor, trustee, or beneficiary.

7           26. All partnerships, joint ventures, and any other type of business entity  
8 in which Photo U.S.A. Corporation has a current, past, or future interest.

9           27. Photo U.S.A. Corporation's current, past, and future day-to-day  
10 financial transactions.

11           28. Pending lawsuits in which Photo U.S.A. Corporation has a current,  
12 past, or future interest.

13           29. All claims, accounts receivable, notes, or expectancies that Photo  
14 U.S.A. Corporation holds against any person or entity.

15           30. The current whereabouts of any tangible assets, including equipment,  
16 inventory and real property in which Photo U.S.A. Corporation has a current, past,  
17 or future interest.

18           31. Photo U.S.A. Corporation's financial institutions, financial accounts,  
19 financial-account numbers, and financial-account balances.

20           32. All judgments held by Photo U.S.A. Corporation against any  
21 individual or entity.

22           33. Photo U.S.A. Corporation's shareholders.

23           34. Photo U.S.A. Corporation's bondholders.

24           35. Photo U.S.A. Corporation's stock.

25           36. Photo U.S.A. Corporation's bonds.

26           PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rules of Civil  
27 Procedure 30, 45, and 69, the deponent(s) shall bring to the deposition any and all  
28 documents responsive to the notice of subpoena.

**DEFINITIONS AND INSTRUCTIONS**

1  
2 1. The terms "YOU" and "YOUR" mean and include Photo U.S.A.  
3 Corporation, its parents, subsidiaries, and joint ventures as well as any person or  
4 entity acting on its behalf, including its agents, and employees.

5 2. The term "CODEFENDANTS" means and includes James Peng,  
6 North American Investments Corporation, and Photo USA Electronic Graphic, Inc.

7 3. The term "DOCUMENTS" means and includes means handwriting,  
8 typewriting, printing, photostating, photographing, photocopying, transmitting by  
9 electronic mail or facsimile, and every other means of recording upon any tangible  
10 thing, any form of communication or representation, including letters, words,  
11 pictures, sounds, or symbols, or combinations thereof, and any record thereby  
12 created, regardless of the manner in which the record has been stored.

13 With respect to electronically stored information, such information should be  
14 produced in hard copy and electronic format.

15  
16 **DOCUMENTS YOU ARE TO PRODUCE:**

17 1. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
18 to YOUR income.

19 2. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
20 to YOUR assets.

21 3. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
22 to YOUR liabilities.

23 4. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
24 to YOUR expenditures.

25 5. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
26 to YOUR financial, banking, stock, bond, or investment accounts.

27 6. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
28 to YOUR federal income tax.

1           7. All DOCUMENTS that constitute, evidence, reflect, refer to, or relate  
2 to YOUR state income tax.

3           8. All bank statements, signature cards, canceled checks, deposit slips,  
4 bank memoranda, checkbooks, certificates of deposit, passbooks and any other  
5 DOCUMENTS that relate to checking accounts, savings accounts, escrow accounts  
6 or any other accounts in a bank, savings and loan association, credit union, or other  
7 financial institution in which YOU have or have had an interest.

8           9. All deeds, mortgages, trust deeds, certificates of participation, trust  
9 agreements, contracts for deed and other DOCUMENTS that evidence any  
10 ownership interest, legal or equitable, in real estate in which YOU have or have had  
11 an interest.

12           10. All statements of account and other DOCUMENTS that relate to a  
13 stock, money market, option or commodities brokerage account or accounts,  
14 whether or not maintained with a stock or commodities broker or other financial  
15 institution, in which YOU have or have had an interest.

16           11. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
17 property or assets held by any of the CODEFENDANTS.

18           12. All DOCUMENTS that constitute, evidence, reflect, refer to, or to any  
19 sale, transfer, or gift of any of YOUR assets or income.

20           13. All notes, mortgages and other DOCUMENTS that refer or relate to  
21 any indebtedness, liability or obligation owed by any of the CODEFENDANTS to  
22 YOU.

23           14. All notes, mortgages and other DOCUMENTS in YOUR that refer or  
24 relate to any indebtedness, liability or obligation owed by YOU to any of the  
25 CODEFENDANTS.

26           15. All DOCUMENTS that refer or relate to ownership of Photo U.S.A.  
27 Corporation, North American Investments Corporation, or Photo USA Electronic  
28 Graphic, Inc.

1       16. All DOCUMENTS reflecting the assets, liabilities, income, debts, or  
2 expenditures of any of the CODEFENDANTS.

3       17. All DOCUMENTS that pertain to royalties, expectancies, stock  
4 certificates, notes, bonds, debentures, futures contracts, or options, whether  
5 negotiable or non-negotiable, in which YOU have or have had an interest.

6       18. All DOCUMENTS that pertain to life, casualty, or property insurance  
7 policies in which YOU have or have had an interest.

8       19. All receipts, rental agreements, or other DOCUMENTS that reflect,  
9 refer to, or relate to any safety deposit box to which YOU have or have had access.

10       20. All certificates of title for any motor vehicle in which YOU have or  
11 have had an interest.

12       21. All certificates of title, registration certificates, financing statements,  
13 agreements or other DOCUMENTS that reflect, refer, or relate to relate to any  
14 airplanes, helicopters, boats, ships, yachts, barges, railway cars, gems, jewelry,  
15 artwork, livestock, or race horses in which YOU have or have had an interest.

16       22. All certificates of title and other DOCUMENTS that relate to  
17 inventory, machinery, supplies, fixed assets, plants, warehouses or other like assets  
18 in which YOU have or have had an interest.

19       23. All DOCUMENTS reflect, refer to, or relate to YOUR cash on hand.

20       24. All DOCUMENTS reflect, refer to, or relate to any funds belonging to  
21 YOU that are being held in escrow or trust.

22       25. All DOCUMENTS reflect, refer to, or relate to any trust to which you  
23 are, have been, or may be a beneficiary.

24       26. All agreements, memoranda, minutes, notes, DOCUMENTS filed with  
25 any governmental organization or agency, and any other DOCUMENTS that  
26 reflect, refer to, or relate to any partnership, joint venture, or any other type of  
27 business entity in which you have or have had an interest.

28

1 27. All books, records, journals, ledgers, financial statements, both  
2 certified and otherwise, accountants' worksheets and other DOCUMENTS that  
3 reflect YOUR day-to-day financial transactions.

4 28. DOCUMENTS sufficient to identify any claims on YOUR behalf in  
5 pending lawsuits in which YOU are a party.

6 29. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
7 to any claims, accounts receivable, notes, or expectancies that YOU hold against  
8 any person or entity.

9 30. All financing statements, security agreements, contracts, promissory  
10 notes, purchase agreements, bills of sale, and other DOCUMENTS that list YOU as  
11 either the creditor, debtor, guarantor, payee, assignor, assignee, transferor or  
12 transferee and any related foreclosure DOCUMENTS.

13 31. All DOCUMENTS reflecting, referring to, or relating to the current  
14 whereabouts of any tangible assets, including equipment, inventory and real  
15 property in which YOU have or have had an interest.

16 32. All DOCUMENTS that evidence, constitute, reflect, refer to, or relate  
17 to, any judgments held by YOU against any individual or entity.

18 33. All DOCUMENTS that evidence, reflect, refer to, or relate to YOUR  
19 shareholders.

20 34. All DOCUMENTS that evidence, reflect, refer to, or relate to YOUR  
21 bondholders.

22 Dated: December 10, 2007

**SCHIFF HARDIN LLP**

23  
24 By: 

25 Jeffrey V. Comisso  
26 Attorneys for Plaintiff

G. G. Marck & Associates, Inc.,

27 SF9045910.1

**PROOF OF SERVICE**

I, the undersigned, declare:

I am a resident of the State of California and over the age of eighteen (18) years, and not a party to the within action. I am an employee of Schiff Hardin LLP, and my business address is One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105.

On the date below, I caused to be served the following document(s):

**AMENDED NOTICE OF DEPOSITION OF PHOTO U.S.A. CORPORATION AND  
DEMAND FOR PRODUCTION OF DOCUMENTS**

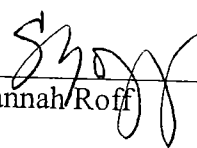
on the parties involved addressed as follows:



**BY U.S. MAIL:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102  
(415) 291-8900  
Fax: (415) 291-8391

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 10, 2007, at San Francisco, California.

  
\_\_\_\_\_  
Susannah Roff



## **EXHIBIT F**



## Richardson Intellectual Property Law

Professional Corporation

(415) 291-8900  
Fax: (415) 291-8391

email: danr @ apatentlawyer.com  
870 Market Street, Suite 615  
San Francisco, CA 94102

January 22, 2008

Jeffrey Commisso, Esq.  
Schiff Hardin LLP  
One Market, Spear Street Tower  
Thirty-Second Floor  
San Francisco, CA 94105

**RE: Continuance on Order of Examination/Notice of Depositions  
G.G. Marck & Associates v. James Peng, et. al.  
VIA FAX and First Class Mail**

Dear Mr. Commisso:

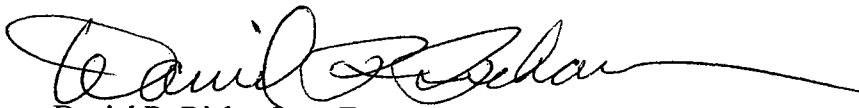
Per my telephone voice mail to your direct line of today, I received an email from my client, Mr. Peng, who is presently in Beijing, Peoples Republic of China. He is too ill to travel per his doctor in China, so he asked me to obtain a continuance of his deposition and that of the corporations scheduled for next week.

I was planning to review the documents and prepare responses this week and will be unable to do so in view of his absence.

I would suggest we take it off calendar and as soon as he is back in the country, we can re-schedule.

Thanks for your consideration.

Sincerely,



Daniel R. Richardson, Esq.  
Attorney for Defendants

cc: JLB  
BAB

RECEIVED  
JAN 24 2008  
SCHIFFHARDIN<sup>LLP</sup>

## **EXHIBIT G**



Jeffrey V. Commisso  
415-901-8781  
jcommisso@schiffhardin.com

ONE MARKET  
SPEAR STREET TOWER  
THIRTY-SECOND FLOOR  
SAN FRANCISCO, CA 94105  
t 415.901.8700  
f 415.901.8701  
www.schiffhardin.com

January 28, 2008

**VIA FACSIMILE (415) 291-8391**

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

Re: **G. G. Marck & Associates, Inc. v. James Peng et al.**

Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

I am writing to confirm our January 28, 2008, telephone call. We discussed the debtors' exams this week and you confirmed that none of your clients would appear. You explained that this was because Mr. Peng is in the PRC and too ill to travel. Nevertheless, you mentioned that you heard from Mr. Peng who reported that he was feeling better and that he tentatively planned to return to the USA on February 5, 2008. You suggested that we wait until his return to pick new dates.

We agreed to discuss new dates for the debtors' exams on February 6, 2008. We also agreed to memorialize our agreement and the new dates in a stipulation and order to be submitted to the Court. Finally, we agreed that your clients would produce documents five days before their depositions.

Thank you for your cooperation. I look forward to talking to you again on February 6, 2008.

Very truly yours,

A handwritten signature in dark ink, appearing to be 'JVC' followed by a stylized flourish.

Jeffrey V. Commisso

JVC:new

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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SUBADDRESS  
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RESULT OK



6600 Sears Tower, Chicago, Illinois 60608-6473 - 312.258.5500  
Facsimile 312.258.5600

ATTORNEY NO.: 2722  
CLIENT/MATTER NO.: 35323-0000  
DATE: January 28, 2008

### FACSIMILE TRANSMITTAL SHEET

#### TO THE FOLLOWING:

Name	Company	Fax Number	Phone Number
Daniel R. Richardson	Richardson Intellectual Property Law	415-291-8391	

FROM: Jeffrey V. Commisso DIRECT DIAL NO.: 415-901-8781

Transmission consists of cover sheet plus 2 page(s).

If there are any problems with this transmission, please call Nadine at 415-901-8700.

#### COMMENTS:

PLEASE SEE THE ATTACHED FOR YOUR REVIEW.

## **EXHIBIT H**



Jeffrey V. Commisso  
415-901-8781  
jcommisso@schiffhardin.com

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THIRTY-SECOND FLOOR  
SAN FRANCISCO, CA 94105  
t 415.901.8700  
f 415.901.8701  
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February 11, 2008

**VIA FACSIMILE (415) 291-8391**

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

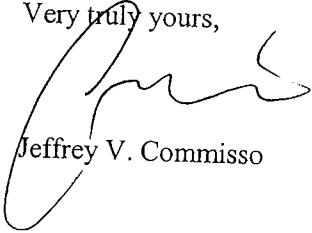
Re: **G. G. Marck & Associates, Inc. v. James Peng et al.**

Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

I am writing to follow up on my January 28, 2008, letter and our failed attempts to connect by phone last week. Please let me know at your earliest convenience whether Mr. Peng is back in the United States and when he can appear for debtor exams. I understood that he was expected back on February 5, 2008. With respect to setting dates and memorializing them in a stipulation and order, we can pick specific dates for the debtor exams or we can agree to a to-be-completed-before date. I look forward to hearing from you soon.

Very truly yours,

  
Jeffrey V. Commisso

JVC:new

35323-0000  
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\*\*\* TX REPORT \*\*\*  
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6600 Sears Tower, Chicago, Illinois 60608-6473 - 312.258.5500  
Facsimile 312.258.5600

ATTORNEY NO.: 2722  
CLIENT/MATTER NO.: 35323-0000  
DATE: February 11, 2008

**FACSIMILE TRANSMITTAL SHEET****TO THE FOLLOWING:**

Name	Company	Fax Number	Phone Number
Daniel R. Richardson	Richardson Intellectual Property Law	415-291-8391	

FROM: Jeffrey V. Commisso DIRECT DIAL NO.: 415-901-8781

Transmission consists of cover sheet plus 2 page(s).

If there are any problems with this transmission, please call Nadine at 415-901-8700.

**COMMENTS:**

PLEASE SEE THE ATTACHED FOR YOUR REVIEW.

## **EXHIBIT I**





Jeffrey V. Commisso  
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jcommisso@schiffhardin.com

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February 19, 2008

**VIA FACSIMILE (415) 291-8391**

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

Re: *G. G. Marck & Associates, Inc. v. James Peng et al.*  
Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

I am enclosing a proposed stipulation and order concerning the debtors exams / depositions in this matter. Please let me know if you have any concerns or proposed changes. If not, please sign and return a copy. I will take care of submitting this to the Court. Your prompt attention would be appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JVC', written over a horizontal line.

Jeffrey V. Commisso

JVC:dwg

Enclosure

SF9094349.1

**SCHIFF HARDIN LLP**

Jean L. Bertrand (Bar No.083250)  
jbertrand@schiffhardin.com  
Jeffrey V. Commisso (Bar No. 191267)  
jcommisso@schiffhardin.com  
One Market, Spear Street Tower  
Thirty-Second Floor  
San Francisco, CA 94105  
Telephone: (415) 901-8700  
Facsimile: (415) 901-8701

Attorneys for Plaintiff  
G.G. Marck & Associates, Inc.,

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NORTHERN CALIFORNIA

G.G. Marck & Associates, Inc.,  
Plaintiff,  
v.

James Peng, North American  
Investments Corporation, North  
American Investments Corp., and  
Photo USA Electronic Graphic, Inc.,  
Defendants.

Case No. C 07 80222 MISC

**[PROPOSED]**

**STIPULATION & ORDER  
REGARDING DEBTORS EXAMS**

1           Whereas there is a dispute between the parties concerning the scheduling of  
2 debtors examinations of James Peng, Photo U.S.A. Corporation, and North  
3 American Investments Corporation; and  
4

5           Whereas the parties wish to avoid motion practice,  
6  
7

8           THE PARTIES, BY AND THROUGH THEIR COUNSEL OF RECORD,  
9 stipulate that:  
10

11           1.     James Peng's deposition will proceed on or before April 15, 2008, and  
12 upon such future dates to which the parties may agree; and

13           2.     Photo U.S.A. Corporation's deposition will proceed on or before April  
14 15, 2008, and upon such future dates to which the parties may agree,  
15

16           3.     North American Investments Corporation's deposition will proceed on  
17 or before April 15, 2008, and upon such future dates to which the parties may agree  
18

19           4.     At least five court days before their deposition, James Peng, Photo  
20 U.S.A. Corporation, and North American Investments Corporation will each  
21 separately produce documents sought by G.G. Marck & Associates in its  
22 December 10, 2007, deposition notices; and  
23

24           5.     It is the intent and understanding of the parties that this stipulated  
25 order shall constitute a prior order, the violation of which may subject James Peng,  
26 Photo U.S.A. Corporation, and North American Investments Corporation to  
27 sanctions or contempt.  
28

IT IS SO STIPULATED.

By Daniel R. Richardson  
Attorneys for defendants / debtors  
James Peng, Photo U.S.A. Corporation, and North  
American Investments Corporation

By Jeffrey V. Commisso  
Attorneys for plaintiff / creditor  
G.G. Marck & Associates, Inc.

IT IS SO ORDERED.

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Judge of the United States District Court

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\*\*\* TX REPORT \*\*\*  
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RESULT OK



One Market, Spear Street Tower, Thirty-Second Floor, San Francisco, California 94105 · 415.901.8700  
Facsimile 415.901.8701

CLIENT/MATTER NO.: 35323-0000  
DATE: February 19, 2008

### FACSIMILE TRANSMITTAL SHEET

#### TO THE FOLLOWING:

Name	Fax Number	Phone Number
Daniel R. Richardson	(415) 291-8391	(415) 291-8900

FROM: Jeffrey V. Commisso	DIRECT DIAL NO.: (415) 901-8781
---------------------------	---------------------------------

Transmission consists of cover sheet plus 4 pages.

If there are any problems with this transmission, please call Dan Gunn at (415) 901-8788.

COMMENTS

## **EXHIBIT J**



Jeffrey V. Commisso

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February 26, 2008

**VIA FACSIMILE (415) 291-8391**

Daniel R. Richardson  
Richardson Intellectual Property Law  
870 Market Street, Suite 615  
San Francisco, CA 94102

Re: **G. G. Marck & Associates, Inc. v. James Peng et al.**

Case No. C 07 MC 80222 SI

Dear Mr. Richardson:

We have not received a response to our February 19, 2008, letter enclosing a proposed stipulation and order. We also have not received a response to our phone calls and voicemails to you on February 15 and 21, 2008. If we do not hear from you or receive a signed copy of the proposed stipulation and order from you before the close of business on February 27, 2008, we will proceed with motion practice.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JVC', is written over the typed name 'Jeffrey V. Commisso'.

Jeffrey V. Commisso

JVC:new

SF09099401.1

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO 4696  
CONNECTION TEL 2918391  
SUBADDRESS  
CONNECTION ID  
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USAGE T 00'56  
PGS. 2  
RESULT OK



6600 Sears Tower, Chicago, Illinois 60606-6473 • 312.258.5500  
Facsimile 312.258.5600

ATTORNEY NO.: 2722  
CLIENT/MATTER NO.: 35323-0000  
DATE: February 26, 2008

**FACSIMILE TRANSMITTAL SHEET**

**TO THE FOLLOWING:**

Name	Company	Fax Number	Phone Number
Daniel R. Richardson	Richardson Intellectual Property Law	415-291-8391	

FROM: Jeffrey V. Commisso NO.: 415-901-8700

Transmission consists of cover sheet plus 2 page(s).

If there are any problems with this transmission, please call Nadine at 415-901-8700.

COMMENTS:  
PLEASE SEE THE ATTACHED LETTER FOR YOUR REVIEW AND ACTION.